



Anonymisation and Publication of Judgments Sub-group: minutes

Date 11 July: 16:30 – 17:30 (via MS Teams)
Author: PFD Office
Attendees: HHJ Madeleine Reardon, Millicent Benson, Jack Cordery, Julie Doughty, Charles Hale KC, DJ Adem Muzaffer, MoJ Policy, Femi Ogunlende, Lucy Reed KC and Andrew Wood JP
Apologies: HMCTS Operational

1. Welcome to new members

- 1.1 HHJ Madeleine Reardon welcomed Millicent Benson and Andrew Wood JP to the group.

2. Minutes of the meeting on 19 July 2022

- 2.1 The minutes were approved.

3. The Financial Remedies Court (FRC) Report - of April 2023

- 3.1 The Financial Remedies Court Sub-group had completed their Report. HHJ Madeleine Reardon had spoken to the group's chair (HHJ Stuart Farquhar) and agreed that, whilst the approach taken by their two sub-groups to anonymisation and judgment publication were not identical, they were coherent and consistent enough to produce one set of Judgment Publication Guidance. This group would therefore amend its Guidance to ensure that it worked for both children and money cases.
- 3.2 Discussions are taking place about the FRC running its own transparency pilot; as yet the timings had not been confirmed.

4. Review draft publication guidance in the light of FRC Report

Action: Charles Hale KC, Lucy Reed KC, Jack Cordery - and anyone else who wished to volunteer - to work on amending the draft Guidance in order to produce a composite document covering both children and money cases (the aim being to produce a draft by the end of September 2023).

5. Judgment rubrics

- 5.1 The rubric was the part of the judgment where the judge sets out the basis on which publication was being permitted. HHJ Madeleine Reardon said that this part of the Publication Guidance would be revisited in order to make it as multi-purpose as possible, so that it could work with e.g. children cases and financial remedies cases.

Action: HHJ Madeleine Reardon to amend the Guidance's rubric and send it round to group members for their comments.

6. Progress: Circuit Judge and District Judge judgment publication

- 6.1 Millie Benson had done some data collection work on the number of judgments published, by judge-level and area of law, on a month-by-month basis, from January 2021 to May 2023: the figures remained fairly consistent during the period and highlighted that publication placed a huge administrative burden on judges who were very busy hearing cases. The determining factor regarding the decision to publish appeared to be decisions taken by individual judges; it was hoped that the number of judgments published would increase once the Guidance was published.

7. The National Archives (TNA)

- 7.1 MoJ Policy wished to seek the views of group members (regarding judicial experiences of uploading judgments, and practitioner and public experiences of searching and browsing) and would feedback to TNA. There had been some initial teething problems regarding publishing judgments on TNA but things had now improved, however searching and browsing were not straightforward; it also appeared that decisions of the more senior courts had been prioritised when cases were transferred over from BAILII. Another issue was the difficulty in determining what cases were about, or identifying the level of judge, without first opening documents: it would therefore be useful to have a browse function (with a drop-down menu). Another point raised was that BAILII judgments contained links to cited cases, but TNA judgments did not.

Action: MoJ Policy to update TNA on the points raised in the meeting and invite a TNA official to a future meeting.

8. Funding Update

- 8.1 The President's private office were involved in ongoing discussions with HMCTS regarding funding for an Anonymisation Unit (within HMCTS): the requirement was for a human, rather than a technology-based, solution to support judges with the process of anonymising judgments. The group wished to record their dissatisfaction with the length of time that this had taken to resolve, and made it clear that work on judgment publication could not progress without resolving the issue of support for anonymisation.

- 8.2 It was highlighted that the updated Judicial Guidance on Data Protection made no mention of the risk to the public of anonymisation errors and data breaches in judicial judgments, nor gave judges advice about what to do if this occurred: it was accepted that this required further consideration.

9. Date of the next meeting

- 9.1 Group members would be canvassed regarding their availability for a meeting in the second week of October.

10. Any other business

Action: Andrew Wood JP to e-mail HHJ Madeleine Reardon with his observations on the Judgment Publication Guidelines.